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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,186

11/10/2003

Michael J.G. Gleissner

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EXAMINER

UTAMA, ROBERT J

ART UNIT

PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/705,186	<b>Applicant(s)</b> GLEISSNER ET AL.	
	<b>Examiner</b> Robert J. Utama	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 51-68 and 89 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-68 and 89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/25/2006</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is a response from the action filed on: 08/21/2006. The current status of claims are as follow: Claim 51-68 and 89 are still pending. Claim 1-50, 69-88 and 90-94 are cancelled.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 51, 54 and 89 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaminski et al (US 5273433). Kaminski et al teaches a method including the steps of: presenting an original content including at least one of video or audio content originally produced primarily for purposes other than language learning (col. 3: 1-3); providing assistance to a user to facilitate language learning (the subtitles, or the written text, col. 2: 27-30); observing an activity of the user, inferring the extent of knowledge of a language of the user and automatically adjusting the form of assistance to the user (col. 2: 44-47), as in **claims 51 and 89**. Playing the original content associated with a plurality of sequential words wherein the length and starting point of the sequence of words is responsive to a user input (**claim 54**) or wherein the speed of the playback is adjusted responsive to a user input (**claim 55**) is shown in col. 2: 21-23 and 30-33.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 52, 53, 55 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al (US 5273433) in view of Sameth et al (US 5882202). Kaminski fails to explicitly teach: delivering the original content with an additional content via a same (**claim 52**) or different (**claim 53**) digital medium, where the additional content includes a text database of the words present within the original content and information about the words (**claims 52 and 53**); providing additional content that includes an index of words spoken in the original content, providing a library of audible pronunciations for a plurality of words in the index and playing the pronunciation in response to a user input (**claim 63**) and playing a plurality of sequentially adjacent word wherein a speed a player plays the planarity of sequentially

adjacent word is adjusted responsive to a user input[**Claim 55**]. The invention of Sameth includes a Dictionary, which contains each word of the contained in the story and a definition (additional information) of the terms. Sameth further includes teaches the use of a user selectable "lip icons" which include an animated enunciation an audible response for any word in the content (see col. 3: 53-59). The system of Sameth is taught as being programmed on a CD-Rom which constitutes a common digital medium. The system of Sameth also provides a teaching for the ability for a user to toggle between normal and slow speech so as to allow the user to more easily understand the pronunciation (col. 6: 15-22, the "Icons" description). Sameth teaches a method and system for language instruction using popular television series (col. 4: 27-33). Sameth fails to teach the use of a separate digital medium for the additional content, however, it is the examiner position that this feature represents a mere re-arrangement of parts. The content of Sameth could just as easily be split to include some information installed on the hard drive of the computer and the rest contained on the CD-Rom and would not alter the functionality of the system. See MPEP 2144.04. It would have been obvious to one of ordinary skill in the art to implement the features of the Sameth invention with the invention of Kaminski so as to include a full dictionary of all available words include proper enunciations and definitions, as such features would allow the user to ascertain the correct pronunciations and definitions of the words.

6. Claims 56-58 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al (US 5273433) in view of Sameth et al (US 5882202) further in view of Tallal et al (US 6071123). In addition to the above Sameth et al teaches the ability

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for a user to toggle between normal and slow speech so as to allow the user to more easily understand the pronunciation [**Claim 55**] (col. 6: 15-22, the “Icons” description). However, neither Kaminski et al or Sameth et al teach: adjusting a pitch of audible playback in relation to the speed of playback (**claims 56 and 62**); adjusting a time-spacing between audible words in the playback in relation to the speed (**claims 57 and 62**), wherein the words between the time spaces have their original pitch and speech rate (**claim 58**). Tallal et al teaches a method for use in speech development which includes the ability to alter a speech pattern so as to make it better understood by the user. Tallal et al teaches pitch adjustment, time spacing adjustments, and speech rate adjustments in at least col. 4: 26-48 and col. 10: 29-58. It would have been obvious to one of ordinary skill in the art to incorporate the speech processing algorithms of Tallal et al into the speed features of Kaminski as modified by Sameth so as to allow the user to more readily understand the words and phrases being played to the user, as suggested by Tallal et al.

7. Claims 59-61 and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al (US 5273433) in view of Siefert (US 5904485). Kaminski teaches all features of the invention as shown above, but fails to teach: automatically pausing the content during playback at a point and for a duration based on the extent of knowledge (**claim 59**); automatically offering an additional content during a pause based on the extent of the knowledge (**claim 60**); prompting a user to indicate if they desire more or less assistance (**claim 61**); analyzing at least one of a user input, a context of the user input, a database of original content, a database of an additional content, and a database of user information to identify information of

interest in relation to a segment of the original content (**claims 64 and 65**), presenting the information of interest prior to playing the segment (**claim 64**), or prompting the user for an additional input, the additional input to cause a further modification of the playback (**claim 65**); and providing a link to content accessible across a distributed network (**claim 66**). Siefert teaches an computer based educational program in which all information is sent through a network (see Figure 1). The system presents information to user both before and during the presentation based upon a user profile (see Figure 2). A user help selection is shown in Figure 3 and further in Figure 4 where breaks in the learning material to present additional or remedial material are shown. See also, col. 2: 39- 67. It would have been obvious to one of ordinary skill in the art to incorporate the features of Siefert with the computer embodiment of Kaminski so as to allow the user to have personalized help materials commensurate with the users' knowledge level.

8. Claims 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaminski et al (US 5273433) in view of Lotvin et al (US 5907831). Kaminski et al teaches all aspects of the claimed invention as shown above, but fails to teach: controlling access to at least one of content and functions based upon rights granted to the user (**claim 67**) or wherein rights are granted based on payments received (**claim 68**). Lotvin et al teaches a computer based educational system, which offers a variety of educational products. The system includes the use of user accounts where a parent user makes payments and assigns permissions for a child user to access specific educational content, see col. 5: 47 – col. 6: 5. It would have been obvious to one of ordinary skill in the art to implement the payment features of Lotvin et al with

the computer embodiment of the Kaminski et al invention so as to ensure that proper payment was made to the distributing and/or authoring parties of the educational content.

### ***Response to Arguments***

9. Applicant's arguments filed 08/21/2006 have been fully considered but they are not persuasive.

10. With regards to the applicant's argument against the rejection under 35 U.S.C 102 (b) in view of the Kaminski US 5,273,433 reference, the applicant argued that the rejections are improper since Kaminski lacked these features: "*inferring the extent of knowledge of a language of the user from the observation*" and "*automatically adjusting the form of assistance to the user based on the inferring.*" The examiner respectfully disagrees.

11. With respect to first argument, the act of inferring refers to the act of coming to a conclusion based on some evidence or facts (or observation of such fact). The limitation of claim 51 does not specify who or what is actually responsible to perform this act of inferring. Kaminski '433 (col. 2:44-49) provide a teaching of where an observer uses the system as described in Kaminski '433 in order to gauge (or infer) the extent of the subject's knowledge of the language. The observation made in this case is based on the subject's performance during the test as supplied by the system described in Kaminski '433.

12. With respect to the second argument, the applicant contends that Kaminski fails to provide a teaching of "*automatically adjusting the form of assistance to the user based on the inferring*" because the applicant's believes that such adjustment is only



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done at the presence of a demand signal from the subject. The examiner respectfully disagrees. The examiner interprets the applicant's limitation of automatic as an act where that is done spontaneously or unconsciously. The limitation of "*automatically adjusting the form of assistance to the user based on the inferring*" can be interpreted as an act where an observer determines that a test subject is having difficulties in a certain language concept and requires certain educational materials, as suggested by Kaminski. The applicant's argument with respect to the word "on demand" is irrelevant, since the limitation is does not cover whether or not the adjustment of form of assistance is actually presented to the test subject.

13. With respect to the to the argument that the Kaminski reference does not provides a teaching on adjusting the speed a player plays a plurality of sequentially adjacent words that is responsive to a user's input. The examiner has responded applicant's amendment by combining the Kaminski reference with the Sameth reference. The discussion of this two combination can be seen in the rejection above.

14. With respect to the argument that rejections under 35 U.S.C 103 with the combination of Kaminski US 5,273,433 and Sameth US 4,882,202 are in improper, since Sameth '202 fails to provide references to cure deficiencies of Kaminski '433. The examiner has provided arguments to dispute this allegation.

15. With respect to the rejection under 35 U.S.C 103 with the combination of Kaminski US 5,273,433, Sameth US 4,882,202 and Tallal 6,071,123. The applicant argues that the examiner has failed to establish a prima facie case of obviousness; since Tallal '123 is a device only meant to be used as a system to enhance speech recognition in a hearing impaired individual, hence the combination is improper. The examiner respectfully disagrees. The Tallal '123 reference explicitly refer to the use of

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the system with normal individual as method of for foreign language training (see Tallal '123 col.1:20-25 and col. 3:1-15). The examiner asserts that the Tallal '123 provides explicit motivation to combine the Tallal '123 system as a foreign language teaching system and provide explicit evidence that the use of Tallal system to improve hearing comprehension of a person without disabilities will work. Since the applicant has failed to prove any of these three conditions: the combination is lacking in motivation or the combination would not likely to be successful or why the combinations of references fail to provide a teaching for all of the limitation, the examiner asserts that the combination is proper.

16. With respect to the rejection under 35 U.S.C 103 with the combination of Kaminski US 5,273,433 and Siefert 5,904,485. The applicant argues that the Siefert reference fails to provide teaching for pausing the content during playback as set forth in limitation of claim 59. The pausing of the content in this limitation is interpreted as a break in the presentation of the learning material. Hence the Siefert reference where it provides a teaching of having breaks in between the presentations of the learning material can be used in the rejection (see Siefert FIG.3 and col.45-65). The argument that the Siefert reference lacks video or audio content originally produced for purposes other than language learning is irrelevant. Since this feature has been addressed in the Kaminski '433 reference (see col.2:66-3:6).

17. With respect to applicant's argument on claim 64 that the Kaminski and Siefert combination fail to provide a teaching for "analyzing source of information when the analysis is to identify information of interest in a segment in the original content." The examiner respectfully disagrees. The examiner interpret the limitation of claim 64 as an act where the system takes account information of the user, takes

hypothesis of the interest of the user and present the content of interest to the user.

This teaching can be found in Siefert '485 col.16:45-55.

18. With respect to the applicant's argument that the combination of Siefert and Kaminski reference is based on improper hindsight. The examiners respectfully disagree. The Siefert reference provides explicit motivation to combine the two references (see Siefert col. 14:45-51). Hence, the applicant's argument of inappropriate hindsight reasoning is not considered effective by the examiner.

19. With respect to the applicant's argument that the combination of Lotvin and Kaminski references are inappropriate as being incompatible technology. The examiner respectfully disagrees. While VHS technology maybe incompatible on its own with the network environment provided by Lotvin, the technology to convert analog VHS format to the digital format are old and well known in the art of video processing. It is known that VHS format can be converted to its equivalent (or other) digital format through the use of the video Analog to Digital converter technology. After its digitized to the digital format it would be also be old and well known to convert between one digital format to another in order to meet to the video format compliance with the Lotvin system.

### **Conclusion**

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezutto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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PRIMARY EXAMINER